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LEWISTOWN FIELD OFFICE
LEWISTOWN, MONTANA

BLM-MOU-MT923-0303

Memorandum of Understanding

Between

**the State of Montana as a Cooperating Agency
and the Montana Bureau of Land Management**

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I. Introduction

This Memorandum of Understanding (MOU) sets forth roles and responsibilities as agreed to between the State of Montana as a Cooperating Agency and the Montana Bureau of Land Management (BLM) for the purposes of collaborative planning and production of an Environmental Impact Statement (EIS) for a Resource Management Plan (RMP) involving the Upper Missouri River Breaks National Monument.

II. Purpose

The Bureau of Land Management (BLM), in carrying forth its responsibilities and mandates under the National Environmental Policy Act (NEPA) and Council of Environmental Quality regulations at 40 Code of Federal Regulations (CFR), Part 1500 and the Federal Land Policy and Management Act (FLPMA) (as amended) and implementing regulations found at 43 CFR Part 1600 recognizes a compelling need to ensure that the interests of the State of Montana and its subdivisions are accounted for, and are meaningfully involved in the Upper Missouri River Breaks National Monument RMP and associated EIS.

As such, the State of Montana has requested and the BLM has agreed to grant Cooperating Agency Status pursuant to 40 CFR 1501.6. Under these regulations, the BLM recognizes that the State has both jurisdictional responsibilities and special expertise as it relates to many aspects of the planning effort described above.

III. Agency Contacts

Each participating entity will designate a primary and secondary representative to act as a point of contact in ensuring coordination between the State and BLM during the planning process. An entity may change its point of contact at any time by providing written notice to the other party. Appendix A specifies the primary and secondary points of contact.

IV. Authorities for Agreement

The authority of the BLM and the State of Montana to participate in this agreement is provided by NEPA, 42 USC 4321 et seq. and 40 CFR 1501.6 (Cooperating agencies), 1506.2 (Elimination of duplication with State and local procedures), and 1508.5 (Cooperating agency).

Additional authorities rest in FLPMA, 43 USC 1712 et seq., which mandate coordination of planning and management efforts with the programs of state and local governments, which may be affected by BLM planning actions.

V. Roles and Responsibilities

a. Montana Bureau of Land Management Responsibilities

The BLM as Lead Agency is responsible for the following:

- i. Preparation of, quality of, and content of the Draft RMP/Draft EIS, the Proposed RMP/Final EIS, and the Record of Decision/Approved RMP.
- ii. Enabling the State of Montana to be a meaningful cooperator in the EIS process by providing the following opportunities:
 - Involvement in identifying issues and concerns relative to the planning process,

- Involvement in identifying or providing data that is suitable, available, and relevant to the planning process,
 - Identification of a reasonable range of alternatives, or portions thereof which are geared towards resolving the planning issues which may be of concern to the State. This may include but is not limited to goals and objectives, desired future conditions, limits of acceptable change, appropriate mitigation measures or monitoring systems,
 - Review and comment on preliminary sections of the EIS that received input from the State of Montana, due to its jurisdictional responsibilities or special expertise.
- iii. Considering to the extent possible and incorporating as appropriate, the information provided by the State into appropriate EIS documents.
- iv. Making all final determinations on the content of the EIS documents.

b. State of Montana Cooperating Agency Responsibilities

The State of Montana as a Cooperating Agency having both jurisdictional responsibilities and special expertise in many arenas related to planning is responsible for the following;

Expertise

- i. Consolidating the comments of State agencies.
- ii. Assisting BLM in the identification of the issues and concerns to be addressed in the planning effort.
- iii. Providing relevant data, which may assist in the planning/EIS process. This data will include but is not limited to the following:
 - Information relative to baseline air quality conditions and trends.
 - Information relative to State knowledge and expertise on approved programs, plans, and policies, which will be affected by the planning effort. This information is to serve as a basis for future consistency reviews.
 - Information relative to social and economic conditions within the planning areas.
 - Information relative to wildlife resources within the planning areas.
 - Information relative to water resources within the planning areas including, but not limited to, water rights, water quality and quantity, risk factors, condition or trend, or areas where future water developments may occur.
 - Information relative to State Trust Lands Administration lands and sovereign lands functions.
 - Information relative to transportation planning and off highway vehicle management.
 - Other such information as may be of interest to the State and which is relevant to the planning issues or data needs.

Review and Analysis

- i. Reviewing and providing comment within a mutually agreed upon timeframe of preliminary baseline reports or other technical reports where the State has provided data or other such information in order to complete the report.

ii. Reviewing and providing comments within a mutually agreed upon timeframe of the following sections of the preliminary draft EIS.

- Preliminary range of alternatives to be considered in detail.
- Relevant portions of the "Affected Environment" section.
- Relevant portions of the "Environmental Consequences" section.
- Relevant portions of the "Consultation and Coordination" section including information on consistency reviews.

iii. During public review periods for the draft EIS, providing the BLM a consolidated comprehensive review of the Draft EIS.

VI. Funding

Each entity agrees to fund its own expenses associated with this planning process.

VII. Joint Responsibilities

The parties agree to use their best efforts to meet the time frames established in the agreement, to work cooperatively, and to resolve differences as quickly as possible.

VIII. Implementation, Amendment, and Termination

This agreement becomes effective upon signature by all parties, and may be subsequently amended through written agreement of all signatories. The State of Montana or BLM may terminate this agreement by providing written notice of termination to the other party. If not terminated sooner, this agreement will end when the notice of availability for the final EIS is published in the Federal Register.

Nothing in this agreement will abridge or amend the authorities and responsibilities of the State of Montana or the BLM or any other party on any matter under their respective jurisdictions.

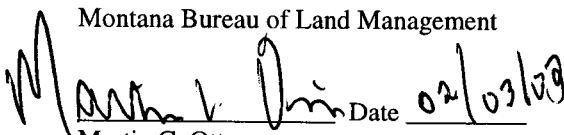
Nothing in this agreement may be construed to require either the State or BLM to obligate or pay funds or in any other way take action in violation of the Anti-Deficiency Act (31 USC 1341) or any State or county law or ordinance.

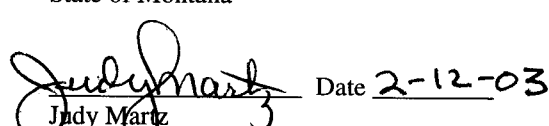
IV. Sovereign Immunity

Neither signatory waives their sovereign immunity by entering into this Memorandum of Understanding, and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this agreement.

X. Signatures

The parties hereto have executed this Memorandum of Understanding as of the dates shown below.

Montana Bureau of Land Management
 Date 02/03/03
Martin C. Ott
State Director, Bureau of Land Management

State of Montana
 Date 2-12-03
Judy Martz
Governor, State of Montana

**Appendix A
Agency Points of Contact**

Bureau of Land Management

Primary

Gary E. Slagel, Monument Manager
Lewistown Field Office
Bureau of Land Management
P.O. Box 1160
Airport Road
Lewistown, Montana 59457-1160

Secondary

Jerry Majerus, Project Manager
Lewistown Field Office
Bureau of Land Management
P.O. Box 1160
Airport Road
Lewistown, Montana 59457-1160

State of Montana

Primary

Clive Rooney, Area Manager
Natural Resources and Conservation
Northeastern Land Office
P.O. Box 1021
613 NE Main
Lewistown, Montana 59457

Secondary

Barny Smith
Natural Resources and Conservation
Northeastern Land Office
P.O. Box 1021
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Lewistown, Montana 59457